DIGEST OF OTHER RECENT VIRGINIA DECISIONS.

Supreme Court Appeals.

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases are reported in full.

HAMMOND *v.* RYMAN et al.

Nov. 16, 1916.

[90 S. E. 613.]

1. Parties (§ 88 (1)*)—Misjoinder of Parties Plaintiff—Statute.—In a suit to enjoin the obstruction of a right of way, if there was a misjoinder of parties because of want of privity or common interest between the plaintiffs, the trial court in effect followed the provisions of Code 1904, § 3258a, providing that court may abate an action as to a party improperly joined and proceed as if such misjoinder had not been made, by disregarding the plaintiff alleged to have been improperly joined and proceeding solely in the name of the other.

[Ed. Note.—For other cases, see Parties, Cent. Dig. § 145; Dec. Dig. § 88 (1).* 10 Va.-W. Va. Enc. Dig. 757.]

2. Easements (§ 61 (8)*)—Actions to Enforce—Pleading—Issues.—In an action to enjoin the obstruction of a right of way, the gist of which was that the right of way passed with the deed by implication and as a way of necessity, the insufficiency of another writing granting the right of way, and referred to in the bill in connection with the deed, to create or pass any right which would run with the land, was not a material issue, and not a sufficient ground of demurrer.

[Ed. Note.—For other cases, see Easements, Cent. Dig. §§ 141-144; Dec. Dig. § 61 (8).* 4 Va.-W. Va. Enc. Dig. 869.]

3. Easements (§ 18 (2)*)—Creation—Implication—Ways of Necessity.—Where defendant conveyed land remote from a highway, but visibly connected with a well-defined road through the residue of defendant's land, although the deed did not mention it, the right of way, which was apparent, continuous, and reasonably essential, became appurtenant to the land conveyed by implication, and adhered to it as completely as if set out in express language in the deed.

[Ed. Note.—For other cases, see Easements, Cent. Dig. § 51; Dec. Dig. § 18 (2).* 4 Va.-W. Va. Enc. Dig. 859.]

4. Easements (§ 48 (6)*) — Ways — Change in Location. — The changes in the location of a right of way through the residue of a grantor's land, appurtenant to land conveyed, by implication, made

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

by the grantor for his own convenience, and acquiesced in by subsequent grantees, were equivalent to changes by agreement, and did not prejudice the rights of the subsequent grantee of the easement.

[Ed. Note.—For other cases, see Easements, Cent. Dig. §§ 103, 107; Dec. Dig. § 48 (6).* 4 Va.-W. Va. Enc. Dig. 859.]

Appeal from Circuit Court, Shenandoah County.

Suit for injunction by Joseph M. Ryman and another against Ephraim H. Hammond. From a decree for named plaintiff, defendant appeals. Affirmed.

Tavenner & Bauserman, of Woodstock, for appellant.
Walton & Walton, of Woodstock, for appellees.

TRESNON, Revenue Com'r, *v.* BOARD OF SUP'RS OF HENRICO COUNTY et al.

Nov. 23, 1916.

[90 S. E. 615.]

1. Statutes (§ 101 (1)*)—Constitution—Repeal by Implication.—The doctrine of repeal by implication not being favored by courts, where two acts dealing with the same subject-matter can be harmonized, courts will give effect to both.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. §§ 230, 233, 234; Dec. Dig. § 161 (1).* 16 Va.-W. Va. Enc. Dig. 1151.]

2. Taxation (§ 365*)—Levy—Statute—Construction.—Code 1904, § 1040a, providing that the shares of the holders of bank stock be deducted from list furnished for taxation on certificate that they are owned and returned for taxation in another city or county, is not repugnant to or repealed by implication by the Bank Act of March 18, 1915 (Laws 1915, c. 142), which does not in terms refer to section 1040a, does designate the sections intended to be amended and re-enacted, and section 19 of which provides that banks, etc., shall pay to state treasury, etc., the taxes assessed against its stockholders.

[Ed. Note.—For other cases, see Taxation, Cent. Dig. §§ 608-611; Dec. Dig. § 365.* 16 Va.-W. Va. Enc. Dig. 1151.]

3. Statutes (§ 121 (1)*)—Construction—Constitutional Provisions.—Code 1904, § 1040a, the original enactment of which was entitled "An act providing for the taxation of shares of stock issued by banks located in counties and cities," although it provides for deduction of shares of stockholders resident in another city or county than the bank, is not violative of Const. 1902, § 52, prescribing that no law

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.